

Disciplinary Actions

REPORTED FOR NOVEMBER

NASD® has taken disciplinary actions against the following firms and individuals for violations of NASD rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this Notice is current as of the end of October 2002.

Firm Fined, Individual Sanctioned

Blake Street Securities, LLC (CRD #44905, Denver, Colorado) and Brad Allen Dowell (CRD #1308189, Registered Principal, Denver, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Dowell was fined \$2,500 and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that they failed to establish, maintain, and enforce a supervisory system and written supervisory procedures reasonably designed to achieve compliance with Section 17(b) of the Securities Act of 1933 and NASD Conduct Rule 2210(b). The findings stated that the firm and Dowell failed to conduct the required reviews, and thereby failed to prevent a registered representative of the firm from publishing information about stocks on his Web site without fully disclosing the amounts of compensation he received for doing so.

Dowell's suspension began November 4, 2002, and will conclude at the close of business November 8, 2002. (NASD Case #CMS020171)

Firms and Individuals Fined

CyBerBroker, Inc. n/k/a CyberTrader, Inc. (CRD #44523, Austin, Texas), and Mark Kurt Stryker (CRD #2740097, Registered Principal, Austin, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which they were each censured and fined \$15,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm placed an advertisement on its Web site and on the Web sites of other parties that said it was the "#1 Electronic Broker For Active Online Traders" and included a disclaimer that the statement was based on "industry research" conducted by an independent financial services firm when, in fact, the firm internally utilized a different analysis to determine that it was the highest-ranked firm and failed to disclose in its communications with the public its analysis or the basis for its determination, causing the statement to be misleading. The findings also stated that Stryker conceived and approved the internal analysis done by the firm and approved the "global" use of the phrase, providing the firm's compliance staff with evidence sufficient to support the statement. (NASD Case #CAF020040)

PCI* Trade Securities (CRD #40650, Fremont, California) and Shixiong Liu (CRD #2217632, Registered Principal, Fremont, California) submitted an Offer of Settlement in which they were censured and fined \$11,454.46, jointly and severally. The fine included disgorgement of \$3,954.46 in commissions paid to Liu. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Liu performed activities as a registered person and performed duties in a capacity requiring registration, and the firm permitted him to perform such activities, duties, and functions, when Liu was deemed inactive for failure to complete the Regulatory Element of Continuing Education. NASD found that the firm, acting through Liu, failed to comply with the Firm Element of the Continuing Education Requirement for the firm's covered personnel in that it failed to perform a written needs analysis and create a written training plan as set forth in NASD Membership and Registration Rule 1120(b). (**NASD Case #C01020010**)

Firms Fined

ABN AMRO Incorporated (CRD #15776, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to take reasonable steps to ensure that the executing brokers clearing trades through the firm completely and accurately reported transactions in municipal securities effected with other broker/dealers or municipal securities dealers. NASD also found that the firm failed to provide accurate and timely information regarding municipal securities trades to the National Securities Clearing Corporation (NSCC), which caused the firm's T-Input Percentage to be consistently below the industry average. (**NASD Case #C8A020065**)

Allmerica Investments, Inc. (CRD #3960, Worcester, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to establish an adequate supervisory system reasonably designed to prevent and detect unsuitable mutual fund transactions in customer accounts. The findings also stated that the firm failed to establish reasonable written supervisory procedures for identifying the process the firm used in reviewing and detecting unsuitable mutual fund transactions, and to the extent the firm had written supervisory procedures related to mutual fund transactions, the firm failed to take steps to ensure that the procedures were followed. (**NASD Case #C11020036**)

Conseco Equity Sales, Inc. (CRD #4125, Carmel, Indiana) submitted a Letter of Acceptance, Waiver, and Consent in which

the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it allowed representatives to act in a capacity requiring registration without being so registered due to a failure to complete the Regulatory Element of Continuing Education. The findings also stated that the firm failed to establish, maintain, and enforce written supervisory procedures to ensure compliance with the Regulatory Element of Continuing Education. (**NASD Case #C8A020073**)

First Institutional Securities, LLC (CRD #23910, West Paterson, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$15,000, and required to pay \$1,840 in restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it incorrectly reported to the Automated Confirmation Transaction ServiceSM (ACTSM) the capacity in which it had acted and failed to report trades properly. The findings also stated that the firm failed to display immediately customer limit orders in its public quotation when each such order was at a price that would have improved the firm's bid or offer in each such security, and failed to contemporaneously or partially execute customer limit orders after it traded each subject security for its own market-making account at a price that would have satisfied each customer's limit order. In addition, NASD found that the firm incorrectly notified a customer that the trade had been executed on an agency basis, when, in fact, the trade had been effected on a principal basis and failed to maintain an order ticket for transactions and the order tickets failed to reflect the correct execution or entry time. (**NASD Cases #C9B020072 and C9B020073**)

First Montauk Securities Corp. (CRD #13755, Red Bank, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to display immediately customer limit orders in NASDAQ securities in its public quotation, when each such order was at a price that would have improved the firm's bid or offer in each such security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer in such security, and the size of the order represented more than a de minimis change in relation to the size associated with its bid or offer in each such security. The findings also stated that the firm failed to report to the Fixed Income Pricing SystemSM (FIPSSM) transactions in FIPS securities within five minutes after execution. (**NASD Case #CMS020178**)

KBC Financial Products USA, Inc. (CRD #46709, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to

transmit through ACT last-sale reports of transactions in NASDAQ National Market® (NNM®), NASDAQ SmallCapSM (SCSM), and Consolidated Quotation Service (CQS) securities. NASD also found that the firm incorrectly designated as ".SLD" through ACT last-sale reports of transactions in NNM securities and CQS securities reported to ACT within 90 seconds of execution. The findings stated that the firm failed to accept or decline in ACT transactions in eligible securities within 20 minutes after execution. (NASD Case #CMS020163)

Northeast Securities, Inc. (CRD #25996, Mitchelfield, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, during the contingency period of a private placement offering in which the firm served as placement agent for a best efforts "part-or-none" private placement self-offering of interests in the firm, it failed to ensure that the money or other considerations received were promptly transferred to a bank that had agreed in writing to hold all such funds in escrow for the persons who had the beneficial interests therein, and to transmit or return such funds directly to the persons entitled thereto when the appropriate event or contingency had occurred. (NASD Case #CLI020008)

Spencer Trask Ventures, Inc. (CRD #28373, New York, New York) was censured and fined \$41,636, of which \$1,000 was jointly and severally. The sanctions were based on findings that the firm, in violation of the Free-Riding Withholding Interpretation, sold "hot issues" to prohibited accounts and failed to exercise reasonable supervision and to establish and maintain supervisory procedures reasonably designed to achieve compliance with NASD Rule IM-2110-1. (NASD Case #C8A020010)

SWS Securities, Inc. f/k/a Southwest Securities, Inc. (CRD #6220, Dallas, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$25,000, and required to revise its written supervisory procedures as they relate to the review of approval of letters of authorization and the firm's credit restrictions and trading parameters. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to enforce written supervisory procedures addressing the handling, approval, and processing of customer letters of authorization (LOA) received from its correspondent firms participating in day-trading activities. The findings also stated that the firm failed to reflect in its written supervisory procedures its procedures to address the setting of trading parameters for correspondent firms and the monitoring of correspondent transactions away from the firm. (NASD Case #C05020047)

Worldco, L.L.C. (CRD #24673, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described

sanctions and to the entry of findings that it reported proprietary and customer short-sale transactions through ACT without a short-sale modifier, and long-sale transactions were incorrectly reported as short. The findings also stated that the firm executed proprietary short-sale transactions in NASDAQ National Market Securities (NMS) at the current inside bid, when the current inside bid was below the preceding inside bid in the security. (NASD Case #C05020049)

Individuals Barred or Suspended

Richard Ralph Avis (CRD #2490874, Registered Representative, Tampa, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, including disgorgement of earned commissions of \$7,560, and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Avis consented to the described sanctions and to the entry of findings that he participated in an outside business activity for compensation without providing prompt written notice to his member firm.

Avis' suspension began November 4, 2002, and will conclude May 3, 2003. (NASD Case #C07020074)

Michael Baldo a/k/a Miguel Baldo Lozano (CRD #2620455, Registered Representative, Long Island City, New York) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. Without admitting or denying the allegations, Baldo consented to the described sanctions and to the entry of findings that he effected transactions in the accounts of public customers without their prior knowledge, authorization, or consent.

Baldo's suspension began October 21, 2002, and will conclude at the close of business January 20, 2003. (NASD Case #C10020062)

Donald Jeffrey Barker (CRD #4476980, Associated Person, Aurora, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which he was censured, fined \$2,500, and suspended from association with any NASD member in any capacity for nine months. The fine must be paid before Barker reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Barker consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on his Uniform Application for Securities Industry Registration or Transfer (Form U-4).

Barker's suspension began October 21, 2002, and will conclude July 20, 2003. (NASD Case #C8A020069)

Bruce Douglas Berry (CRD #2846046, Registered Representative, Livonia, Michigan) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Berry consented to the described sanctions and to the entry of findings that he removed an IRA rollover check that a public customer submitted to his office, brought the check to the customer's home, and suggested that the customer transfer the rollover to a company affiliated with his soon-to-be new employer. The findings also stated that after the customer completed a new account form, Berry crossed out and substituted the payee on the rollover check, placed the customer's initials next to the payee line, and submitted the check to the new company, but the check was rejected.

Berry's suspension began November 4, 2002, and will conclude at the close of business December 3, 2002. (NASD Case #C8A020063)

Douglas Scott Bingaman (CRD #1611958, Registered Representative, South Bend, Indiana) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Bingaman consented to the described sanction and to the entry of findings that he received \$37,553 from public customers for investments, deposited the funds into his own account, and then converted the funds to his own use without the knowledge or consent of the customers. (NASD Case #C8A020066)

Anthony Brian John Black (CRD #1582391, Registered Supervisor, San Diego, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Black consented to the described sanction and to the entry of findings that, without public customers' knowledge or consent, he affixed the customers' and other necessary signatures on multiple letters of authorization (LOAs), withdrew \$140,000 in customer funds from a variable annuity contract, transferred these funds to a bank account under his ownership and control, and used the funds for his personal use. (NASD Case #C02020051)

Ronald James Blekicki (CRD #2615061, Registered Representative, Boulder, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Blekicki reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Blekicki consented to the described sanctions and to the entry of findings that he failed to disclose fully the amounts of compensation he received in exchange for publishing favorable information about stocks on

his Internet Web site. The findings also stated that Blekicki failed to have a registered principal of his member firm review and pre-approve his Internet publications. In addition, NASD found that Blekicki maintained a securities account at another broker/dealer without notifying his member firm, and without notifying the firm where the account was opened when he became associated with another member firm.

Bleckicki's suspension began November 4, 2002, and will conclude at the close of business November 3, 2003. (NASD Case #CMS020170)

Robert Loal Boeke, Sr. (CRD #2515281, Registered Representative, Rockford, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$43,000, including the disgorgement of financial benefits received, and barred from association with any NASD member in any capacity. The fine must be paid before Boeke reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Boeke consented to the described sanctions and to the entry of findings that he converted a public customer's funds totaling \$100,000 to his own use and deposited the funds into his personal brokerage account held at another member firm without the knowledge or consent of the customer. The findings also stated that Boeke failed to disclose to his member firm that he maintained a brokerage account at another member firm. (NASD Case #C8A020067)

Jason Phillip Bronston (CRD #2635605, Registered Representative, West Hills, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Bronston consented to the described sanction and to the entry of findings that he received and converted \$77,000 in customer funds intended for investment purposes. The findings also stated that Bronston failed to respond to NASD requests for information. (NASD Case #C02020047)

Paul Raymond Brunner (CRD #3178981, Registered Representative, O'Fallon, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, including \$5,000, plus interest, in disgorgement of commissions to customers, and suspended from association with any NASD member in any capacity for 60 days. The fine and disgorgement must be paid before Brunner reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Brunner consented to the described sanctions and to the entry of findings that he engaged in private securities transactions away from his member firm and failed to provide his firm with detailed written notice of the transactions and his role therein, and to receive permission from his member firm to engage in the transactions. The findings also

stated that Brunner acted in capacities requiring registration as a general securities representative without being properly registered with NASD.

Brunner's suspension began November 4, 2002, and will conclude at the close of business January 2, 2003. (NASD Case #C04020034)

Harvey Lee Bunker, Jr. (CRD #3015864, Registered Representative, Nashville, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Bunker reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Bunker consented to the described sanctions and to the entry of findings that he misappropriated \$11,974 in insurance premium payments that he received from public customers of his member firm by borrowing such funds to meet his business expenses, without the knowledge or the express or implied consent of the customers or his member firm.

Bunker's suspension began October 21, 2002, and will conclude at the close of business October 20, 2003. (NASD Case #C8A020070)

Salvatore Carrizzo, Jr. (CRD #2276381, Registered Representative, Massapequa Park, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for one year. In light of the financial status of Carrizzo, no monetary sanctions have been imposed. Without admitting or denying the allegations, Carrizzo consented to the described sanction and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm.

Carrizzo's suspension began October 21, 2002, and will conclude at the close of business October 20, 2003. (NASD Case #C9B020067)

Timothy Roderick Chamberlain (CRD #2693994, Registered Principal, Costa Mesa, California) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. In light of the financial status of Chamberlain, no monetary sanctions have been imposed. Without admitting or denying the allegations, Chamberlain consented to the described sanction and to the entry of findings that he participated in a scheme to manipulate the share price of a common stock in exchange for guaranteed profits for stocks that he bought and sold at the direction of two individuals. The findings stated that Chamberlain also accepted compensation in the form of shares of stock, which he received in nominee accounts. In addition, the findings stated that Chamberlain failed to notify his member firm and the executing member firm at which he traded his shares of stock, in writing, of his association with the other member firm prior to opening

his trading account or placing an initial order for the purchase or sale of sales of stock. (NASD Case #CAF010021)

Brian Francis Colby (CRD #1896649, Registered Representative, Boston, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Colby consented to the described sanction and to the entry of findings that he engaged in Free-Riding by purchasing shares in the "hot issue" offerings (where shares traded at a premium in the aftermarket) through the account of a public customer while registered with his member firm. The findings also stated that Colby provided false and/or misleading responses to NASD during an on-the-record interview. (NASD Case #C9B020064)

Jeffrey Paul Couper (CRD #1111013, Registered Representative, Iron Mountain, Michigan) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Couper reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Couper consented to the described sanctions and to the entry of findings that he mishandled customer funds when he accepted and held monthly cash payments intended for life insurance premiums from a public customer. NASD found that the funds were not applied to the insurance policies, and, as a result, the policies lapsed. The findings also stated that Couper mishandled public customer funds when he accepted \$135 from the customer for payment of a variable life product, but failed to promptly apply the funds to the product.

Couper's suspension began November 4, 2002, and will conclude May 3, 2003. (NASD Case #C8A020045)

Lucretia Pamela Davis (CRD #3276421, Registered Representative, Columbus, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Davis consented to the described sanction and to the entry of findings that she forged the signatures of members of the public on savings account withdrawal slips for accounts maintained at a bank affiliate of her member firm, presented the withdrawal slips, obtained proceeds totaling \$41,700, and used the proceeds for her own benefit, without their knowledge, consent, or authorization. (NASD Case #C8B020019)

Marlon Francisco Delgado (CRD #2531325, Registered Representative, Franklin Square, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, suspended from association with any NASD member in any capacity for 18 months, and required to requalify by exam as a general securities representative. If Delgado fails to requalify within 60 days after conclusion of the suspension, he

shall not associate with any NASD member in any capacity until he requalifies. The fine must be paid before Delgado reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Delgado consented to the described sanctions and to the entry of findings that he effected the sale of securities in at least three states in which he was not yet registered, and attempted to conceal it by placing the trades under another broker's name. The findings stated that Delgado solicited public customers to purchase securities, downplayed the attendant investment risks, and made unwarranted price predictions, causing the customers to authorize and pay for the transactions. NASD also found that Delgado effected transactions in the account of a public customer without the customer's prior knowledge, authorization, or consent.

Delgado's suspension began October 21, 2002, and will conclude at the close of business April 20, 2004. (NASD Case #C10020093)

Donald Francis Dupont (CRD #2581848, Registered Representative, Averill Park, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Dupont reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Dupont consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts by failing to amend his Form U-4.

Dupont's suspension began November 4, 2002, and will conclude May 3, 2003. (NASD Case #C11020040)

Walter William Durchhalter (CRD #1428989, Registered Principal, Middle Village, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$25,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Durchhalter reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Durchhalter consented to the described sanctions and to the entry of findings that, as head trader of his member firm, he caused his firm to bid for, purchase, and induce others to purchase warrants while the firm was engaged in a distribution of the warrants. The findings stated that Durchhalter posted the firm's bid and ask price quotations at prices intended to induce others to purchase warrants from, and sell warrants to, his member firm in the aftermarket during these periods and executed purchases of warrants on behalf of his member firm.

Durchhalter's suspension began October 21, 2002, and will conclude at the close of business October 20, 2003. (NASD Case #CAF020034)

Nancy Katherine Evans (CRD #2422682, Registered Representative, Marshfield, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Evans consented to the described sanction and to the entry of findings that, without the knowledge or consent of a public customer, she prepared and signed the customer's signature on Letters of Authorization that authorized wire transfers totaling \$24,254.13 from the customer's account, which were misappropriated by Evans for her own personal use. (NASD Case #C11020038)

Kevin Thomas Ferguson (CRD #4143905, Registered Representative, Boston, Massachusetts) was barred from association with any NASD member in any capacity. The sanction was based on findings that Ferguson issued annuitant checks totaling \$26,040 without the consent or authorization of the annuitants, and converted the funds to his own use and benefit. In addition, Ferguson failed to respond to NASD requests for information. (NASD Case #C11020017)

Gary Andrew Finly (CRD #2776637, Registered Representative, North Port, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Finly consented to the described sanction and to the entry of findings that, without authorization or consent, he forged the signatures of public customers on account transfer paperwork in order to cause their accounts to be transferred from his former member firm to his new member firm. (NASD Case #C07020072)

Frederic James Folino (CRD #1210850, Registered Representative, Camarillo, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, ordered to disgorge \$22,200 in commissions received to be paid as restitution to public customers, and suspended from association with any NASD member in any capacity for three months. Without admitting or denying the allegations, Folino consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to his member firm.

Folino's suspension began October 21, 2002, and will conclude at the close of business January 20, 2003. (NASD Case #C06020014)

William Walton Glauser (CRD #3250733, Registered Representative, Huntsville, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 18 months. The fine must be paid before Glauser reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Glauser consented to the described sanctions and to the entry of findings that, in connection with a Series 65 examination, he

committed an act of misconduct by removing scratch paper from the test center without authorization, and, as a result, his testing session was terminated. The findings also stated that Glauser willfully failed to disclose material facts on his Form U-4.

Glauser's suspension began October 21, 2002, and will conclude at the close of business April 20, 2004. (NASD Case #C06020012)

David William Haburjak (CRD #2233093, Registered Representative, W. Gastonia, North Carolina) was fined \$10,000 and suspended from association with any NASD member in any capacity for 20 business days. The sanctions are based on findings that Haburjak exercised discretionary power in the accounts of public customers without written discretionary authority from the customers or his member firm's acceptance of the accounts as discretionary.

Haburjak's suspension began October 7, 2002, and concluded at the close of business November 1, 2002. (NASD Case #C07010100)

Peter Van Hamm (CRD #2530393, Registered Representative, Dunellen, New Jersey) was fined \$25,000 and suspended from association with any NASD member in any capacity for one year. The fine is due and payable upon Hamm's re-entry into the securities industry. The sanctions are based on findings that Hamm executed unauthorized transactions in the accounts of public customers.

Hamm's suspension began November 4, 2002, and will conclude at the close of business November 3, 2003. (NASD Case #C10010082)

Glen S. Hancock (CRD #1461959, Registered Representative, Cedar Park, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, ordered to pay \$4,875, plus interest, in restitution to public customers, and suspended from association with any NASD member in any capacity for 30 business days. Without admitting or denying the allegations, Hancock consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to his member firm.

Hancock's suspension began November 4, 2002, and will conclude at the close of business December 16, 2002. (NASD Case #C05020048)

Kevin Jay Hayes (CRD #4435512, Associated Person, St. Louis, Missouri) was barred from association with any NASD member in any capacity. The sanction was based on findings that Hayes failed to respond to NASD requests for information. Hayes also failed to disclose a material fact on his Form U-4. (NASD Case #C04020014)

Herbert Clarence Hearne (CRD #2462835, Registered Principal, Cotuit, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000 and suspended from association with any NASD member in any capacity for one month. The fine must be paid before Hearne reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Hearne consented to the described sanctions and to the entry of findings that he agreed to process the paperwork to open accounts and purchase transactions, effect the transactions, and pay the commissions to a registered representative of another member firm once the representative became registered with his member firm. NASD found that Hearne paid the representative commissions for transactions that occurred prior to the representative becoming registered with his member firm. In addition, NASD determined that Hearne failed to take appropriate action to supervise a registered representative who recommended unsuitable transactions in customer accounts, which was reasonably designed to prevent the violations by the representative and achieve compliance with applicable securities laws, regulations, and NASD rules.

Hearne's suspension began October 21, 2002, and will conclude at the close of business November 20, 2002. (NASD Case #C11020035)

Wayne William Hoffman (CRD #1097848, Registered Principal, Fogelsville, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hoffman consented to the described sanction and to the entry of findings that he participated in private securities transactions outside the scope of his employment with his member firm and failed to provide prior written notice of his proposed participation in the transactions to his member firm. (NASD Case #C9A020042)

John Allen Jones, IV (CRD #2351720, Registered Representative, Montgomery, Alabama) submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Jones consented to the described sanction and to the entry of findings that he recommended purchase and sale transactions in various securities to public customers without having reasonable grounds for believing that they were suitable for the customers in view of the frequency and nature of the recommended transactions and the customers' financial situation, objectives, circumstances, and needs.

Jones' suspension began November 4, 2002, and will conclude at the close of business November 3, 2003. (NASD Case #C05020006)

Eugene Michael Kingman (CRD #1995746, Registered Representative, Holmdel, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Kingman reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Kingman consented to the described sanctions and to the entry of findings that in sworn testimony before NASD, he falsely testified that presented order tickets represented actual orders for stock and later admitted that he had given false testimony.

Kingman's suspension began October 21, 2002, and will conclude April 20, 2003. (**NASD Case #CMS020165**)

William Francis Kirincich (CRD #1388826, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any principal or supervisory capacity for 30 days. The fine must be paid before Kirincich reassociates with any NASD member. Without admitting or denying the allegations, Kirincich consented to the described sanctions and to the entry of findings that he permitted persons associated with his member firm to engage in the securities business of the firm as general securities representatives and/or assistant representatives—order processing while they were not registered with the NASD in any capacity.

Kirincich's suspension began October 7, 2002, and concluded at the close of business November 5, 2002. (**NASD Case #C10020097**)

Gary Charles Klein (CRD #1731164, Registered Representative, Dallas, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Klein consented to the described sanction and to the entry of findings that he opened, or caused to be opened, a securities brokerage account at another member firm and executed transactions in the account without providing written notification to his member firm of his intentions to execute these transactions, and failed to advise the other firm of his association with his member firm. The findings stated that Klein opened the account pursuant to an oral understanding he had with a public customer at his firm through which Klein and the customer agreed to treat the account as a partnership account and that they would share equally in any profits in the account. NASD found that Klein opened the account in his name only and never received written authorization from the firm to share in the profits in the account with the customer. The findings also stated that Klein exercised discretionary authority in the account by executing all equity transactions without obtaining the customer's prior written

authorization and his member firm's written acceptance of the account as discretionary. In addition, NASD found that Klein received \$68,032.83 in customer funds intended to be deposited in the account, did not apply all the funds as directed by the customer, and instead, without the customer's knowledge or consent, misused \$4,532.82, which he did not deposit until after six months of receipt. (**NASD Case #C02020043**)

Lawrence John LaSala (CRD #2237835, Registered Representative, Oak Ridge, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, LaSala consented to the described sanction and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm. (**NASD Case #C9B020065**)

Christopher John Lester (CRD #2875370, Registered Representative, Somerset, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for two years. In light of the financial status of Lester, no monetary sanctions have been imposed. Without admitting or denying the allegations, Lester consented to the described sanction and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm.

Lester's suspension began October 21, 2002, and will conclude at the close of business October 20, 2004. (**NASD Case #C9B020066**)

Troy Anthony Little (CRD #1364827, Registered Representative, Fresno, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Little consented to the described sanctions and to the entry of findings that, without prior approval of his member firm, he distributed sales literature in the form of a letter to public customers concerning a variable annuity that was an incomplete description of the product's features and therefore contained unwarranted, exaggerated, and misleading statements.

Little's suspension is deemed served based on a suspension imposed by his member firm. (**NASD Case #C01020015**)

James Lopresti (CRD #3236682, Associated Person, Staten Island, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Lopresti reassociates with any NASD member following the suspension or before requesting

relief from any statutory disqualification. Without admitting or denying the allegations, Lopresti consented to the described sanctions and to the entry of findings that he failed to respond timely to NASD request for information.

Lopresti's suspension began October 21, 2002, and will conclude at the close of business October 20, 2003. (NASD Case #C9B020061)

Tina Sue Lounsbury (CRD #2817864, Registered Principal, Jacksonville, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Lounsbury consented to the described sanction and to the entry of findings that she obtained \$105,430.67 from the accounts of public customers, without their authorization or consent, and used the funds for her own purposes. The findings also stated that Lounsbury failed to respond to NASD requests for information. (NASD Case #C07020076)

Richard Scott Madden (CRD #2112496, Registered Representative, Houston, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Madden consented to the described sanction and to the entry of findings that he changed the addresses for joint accounts belonging to public customers to that of a third party and effected transactions in the accounts without the customers' authorization, knowledge, or consent. In addition, NASD found that Madden sent the customers computer-generated reports that contained some information about the account but failed to reflect any of Madden's unauthorized trading activity. The findings also stated that Madden failed to respond to NASD requests for information. (NASD Case #C06020013)

Imran A. Maniar (CRD #2953812, Registered Representative, Houston, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 15 days. The fine must be paid before Maniar reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Maniar consented to the described sanctions and to the entry of findings that he exercised discretionary transactions in the account of a public customer without having obtained prior written authorization from the customer and written acceptance of the account as discretionary by his member firm.

Maniar's suspension began November 4, 2002, and will conclude at the close of business November 18, 2002. (NASD Case #C05020050)

Consuelo Velasco Marcelino (CRD #2832189, Registered Representative, Glendale, California) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Marcelino reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Marcelino consented to the described sanctions and to the entry of findings that, in an attempt to expedite the opening of a public customer's account, she affixed the customer's signature on a new account application without the customer's knowledge or consent.

Marcelino's suspension began November 4, 2002, and will conclude at the close of business December 3, 2002. (NASD Case #C02020050)

Ken Marks (CRD #2192323, Registered Representative, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for eight weeks. The fine must be paid before Marks reassociates with any NASD member following the suspension. Without admitting or denying the allegations, Marks consented to the described sanctions and to the entry of findings that he sent, 19 seconds prior to the close of normal business hours, a SelectNet® order to buy shares from another firm, causing his member firm to send the order without first accessing the inside market. The findings also stated that when Marks sent the SelectNet order to purchase shares, he caused the last trade price of shares to be artificially increased, and as a result, he was able to sell the orders at an advantageous price gain.

Marks' suspension began October 21, 2002, and will conclude at the close of business December 13, 2002. (NASD Case #CMS020162)

Amy Lynn Martin (CRD #3204695, Registered Representative, Memphis, Tennessee) was barred from association with any NASD member in any capacity. The sanction was based on findings that Martin transferred \$128,000 from the accounts of public customers to the checking account of another public customer. The transfer of funds was done for a purpose not directed by the customers and without their knowledge or consent. (NASD Case #C05020018)

Wayne Paul Messner (CRD #2170398, Registered Representative, St. Charles, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Messner consented to the described sanction and to the entry of findings that he received a \$5,000 check from a public customer for the purpose of investing in mutual funds. NASD found that Messner then deposited the check into his business checking account and converted the funds to his own use or for some purpose other

than the benefit of the customer without the knowledge or consent of the customer. The findings also stated that Messner failed to respond completely to NASD requests for information. (NASD Case #C8A020072)

Aaron Simon Morris (CRD #2691021, Registered Representative, Hollywood, Florida) was fined \$45,313, suspended from association with any NASD member in any capacity for nine months, and required to pay \$22,668, plus interest, in restitution to public customers. The sanctions were based on findings that Morris made fraudulent omissions of material fact in connection with the offer and sale of a security.

Morris' suspension began October 7, 2002, and will conclude at the close of business July 7, 2003. (NASD Case #C3A020006)

James Steven Neumeier (CRD #2097359, Registered Representative, High Ridge, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Neumeier consented to the described sanction and to the entry of findings that, without the knowledge or consent of a public customer, he caused a \$25,000 loan to be made from the customer's fixed insurance contract, instructed the customer to deposit the check into his personal checking account, and to write Neumeier a personal check payable to him for \$25,000. NASD found that Neumeier represented to the customer that he would repay his member firm with his funds and instead of repaying, he endorsed and deposited the check into an account under his control, thereby converting the funds to his own use and benefit. The findings also stated that Neumeier failed to respond completely to NASD requests for information. (NASD Case #C04020033)

Bryan Dominic Orjuela (CRD #1865605, Registered Representative, Long Beach, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Orjuela consented to the described sanction and to the entry of findings that in sworn testimony before NASD, he falsely testified that presented order tickets represented actual orders for stock and admitted that he had given false testimony.

Orjuela's suspension began October 21, 2002, and will conclude at the close of business October 20, 2003. (NASD Case #CMS020164)

Leland Keith Ozawa, Jr. (CRD #2119830, Registered Representative, Las Vegas, Nevada) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for two months. Without admitting or denying the allegations, Ozawa consented to the described sanctions and to

the entry of findings that he participated in private securities transactions without providing prior written notice to, and receiving written approval from, his member firm.

Ozawa's suspension began October 21, 2002, and will conclude at the close of business December 20, 2002. (NASD Case #C02020046)

Joseph John Papeo (CRD #2476778, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Papeo consented to the described sanction and to the entry of findings that he effected transactions in the accounts of public customers without their prior knowledge, authorization, or consent. The findings also stated that Papeo, in an exercise of discretion, effected transactions in the joint account of public customers without their prior written authorization and his member firm's written acceptance of the account as discretionary. In addition, NASD found that Papeo exercised discretion in the account of public customers and effected a purchase transaction without having reasonable grounds for believing that the transaction was reasonable based on the customers' financial situation, investment objectives, and financial needs. NASD also found that Papeo effected transactions in his joint trading account at his member firm without paying for the transactions, transferred at least \$8,000 to his joint personal bank account, and wrote a \$20,000 check from his personal bank account to his member firm's clearing firm to pay for transactions effected in his joint trading account that was returned for insufficient funds, causing his firm to be left with a \$21,874.30 debit balance. Furthermore, NASD found that Papeo failed to respond truthfully during an NASD on-the-record interview, failed to respond to NASD requests for documents, and failed to respond to NASD requests to appear for a follow-up on-the-record interview. (NASD Case #C10020094)

Joseph Eugene Rahm (CRD #3212003, Registered Representative, Overland Park, Kansas) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Rahm consented to the described sanction and to the entry of findings that, while employed with a member firm, he converted \$490 to his own use and benefit from a Christmas tree lot at which he was volunteering. (NASD Case #C04020035)

James Anthony Ross (CRD #718008, Registered Representative, Pitcairn, Pennsylvania) submitted an Offer of Settlement in which he was fined \$5,000, suspended from association with any NASD member in any capacity for four months, and required to disgorge \$11,800, plus interest, in partial restitution to public customers. The fine and restitution must be paid before Ross reassociates with any NASD member

following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Ross consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm.

Ross' suspension began October 21, 2002, and will conclude at the close of business February 20, 2003. (NASD Case #C9A020032)

James F. Salata (CRD #1520552, Registered Representative, Amity, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Salata consented to the described sanction and to the entry of findings that he recommended and sold callable Certificates of Deposit (CDs) to public customers and made material misrepresentations during his sales presentations. The findings also stated that Salata misrepresented 15- or 20-year callable CDs as one- or two-year CDs; misrepresented that the CDs would be called within a specific period of time; and informed customers that the callable CDs could be redeemed without penalty at any time with no risk to principal when, in fact, the callable CDs had to be sold on the secondary market to obtain a return of principal prior to maturity with a possible significant loss to principal in such a transaction. In addition, the findings stated that Salata informed customers that they could redeem callable CDs at any time with minimal risk to principal and that any loss would be covered by the interest earned. (NASD Case #CAF020033)

Ruslan M. Sattarov (CRD #3027779, Registered Representative, Seattle, Washington) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Sattarov reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Sattarov consented to the described sanctions and to the entry of findings that he caused the execution of transactions in his mother's securities account at his member firm on an "as of" basis. NASD found that such transactions were entered into the firm's electronic order entry system on a date after the "as of" trade date entered by Sattarov when they should have been entered at the price available on the entry date, not at the more favorable price obtained by entering and executing them on an "as of" basis.

Sattarov's suspension began October 21, 2002, and will conclude at the close of business November 19, 2002. (NASD Case #C3A020026)

Dennis Patrick Sweenor (CRD #2621311, Registered Representative, Queensbury, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, suspended from association with any NASD member

in any capacity for six months, and ordered to pay \$2,822.77, plus interest, in restitution to public customers. The fine and restitution must be paid before Sweenor reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Sweenor consented to the described sanctions and to the entry of findings that he effected, or caused to be effected, transactions in the accounts of public customers without their prior authorization. The findings also stated that Sweenor negligently misrepresented to public customers that they would be charged commissions on profitable trades only or that the commissions would be three percent of the profits from the customers' accounts.

Sweenor's suspension began October 21, 2002, and will conclude April 20, 2003. (NASD Case #C07020075)

Stephen Michael Telesca (CRD #1021136, Registered Representative, Fairport, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$14,490 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Telesca consented to the described sanctions and to the entry of findings that he engaged in private securities transactions, for compensation, away from his member firm and failed to provide his firm with detailed written notice of the transactions, his role therein, and to receive permission from the firm to engage in the transactions. The findings also stated that Telesca engaged in outside business activities for compensation, and failed to provide his member firm with prompt written notice of these activities.

Telesca's suspension began November 4, 2002, and will conclude at the close of business December 3, 2002. (NASD Case #C8B020018)

James Theodore Wade (CRD #1070305, Registered Representative, Fairlawn, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$25,000, suspended from association with any NASD member in any capacity for two years, and ordered to requalify by exam following the suspension before acting in the securities industry in any capacity. The fine must be paid before Wade reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Wade consented to the described sanctions and to the entry of findings that he made material misrepresentations to public customers during the sale of callable CDs. The findings stated that Wade materially misrepresented that the callable CDs were one-year CDs when, in fact, they had 15- or 20-year maturity dates. Wade also misrepresented that the callable CDs could be redeemed without penalty at any time with no risk to principal when, in actuality, the callable CDs must be sold on the secondary market to obtain a return of principal prior to maturity.

Wade's suspension began October 21, 2002, and will conclude at the close of business October 20, 2004. (NASD Case #CAF020044)

Stanley Walker (CRD #2601447, Registered Representative, Crestwood, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Walker transferred approximately \$35,500 from a public customer's checking account to his own checking account without the customer's knowledge or permission and used the funds for his own benefit. The findings also stated that Walker failed to respond to NASD requests for information. (NASD Case #C10020050)

James Richard Wamsley (CRD #1149112, Registered Representative, Petaluma, California) was fined \$5,000 and suspended from association with any NASD member in any capacity for two years. The sanctions were based on findings that Wamsley prepared a letter to a former customer concerning a tax deferred annuity and signed his manager's name to the letter and sent it to the customer without his manager's knowledge and without approval of anyone at his member firm.

Wamsley's suspension began October 7, 2002, and will conclude at the close of business October 6, 2004. (NASD Case #C01010017)

James Arthur Will (CRD #2701284, Registered Representative, Indianapolis, Indiana) was barred from association with any NASD member in any capacity. The sanction was based on findings that Will failed to respond to NASD requests for information. The findings also stated that Will engaged in unauthorized transactions. (NASD Case #C8A020026)

Reinaldo Williams, Jr. (CRD #2419320, Registered Representative, Clifton, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Williams consented to the described sanction and to the entry of findings that, without authorization, he effected numerous transactions in his member firm's error account and then transferred some of the transactions into his personal account. (NASD Case #C9B020069)

Jeri Lynn Winberg (CRD #3177708, Registered Representative, Poway, California) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Winberg reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Winberg consented to the described sanctions and to the entry of findings that, in an attempt to expedite the opening of a public customer's account, she affixed the customer's name on

an account application and signature card without the customer's knowledge or consent.

Winberg's suspension began November 4, 2002, and will conclude at the close of business December 3, 2002. (NASD Case #C02020049)

Steven Boyle Yamashiro (CRD #1953754, Registered Principal, Pasadena, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 20 days. Without admitting or denying the allegations, Yamashiro consented to the described sanctions and to the entry of findings that he entered into a written agreement with a public customer in which he guaranteed that he personally would purchase from the customer identified equities in the customer's portfolio, at a pre-determined price, if the price available in the public market did not exceed the customer's acquisition price or a percentage thereof.

Yamashiro's suspension began November 4, 2002, and will conclude November 23, 2002. (NASD Case #C02020048)

Decisions Issued

The following decisions have been issued by the DBCC or the Office of Hearing Officers and have been appealed to or called for review by the National Adjudicatory Council (NAC) as of October 4, 2002. The findings and sanctions imposed in the decisions may be increased, decreased, modified, or reversed by the NAC. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notices to Members*.

Anthony Harold Barkate (CRD #1255255, Registered Principal, Bakersfield, California) was fined \$400,144, to be reduced by any amounts that had been paid in disgorgement of commissions to public customers, and barred from association with any NASD member in any capacity. The sanctions were based on findings that Barkate engaged in private securities transactions without providing prompt written notice to, or receiving approval from, his member firm regarding his activities.

Barkate has appealed this decision to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C02010041)

Investment Management Corp. (CRD #37196, Salt Lake City, Utah) and Kevin Dee Kunz (CRD #1274540, Registered Representative, Fruit Heights, Utah) were fined \$28,757, jointly and severally, and Kunz was barred from association with any NASD member as a financial and operations principal, suspended from association with any NASD member in any other principal capacity for six months, and required to re-qualify as a principal. The sanctions were based on findings that the firm, acting through Kunz, conducted a securities business while failing to maintain its minimum net capital requirement and had

inaccurate books and records. The findings also stated that the firm, acting through Kunz, filed inaccurate FOCUS reports; submitted an incomplete and materially inaccurate notice of a possible net capital deficiency; failed to file required information concerning an NASD arbitration award and a settlement; and allowed an inactive person to function in a capacity that required him to be actively registered. In addition, NASD determined that the firm, acting through Kunz, failed to have adequate written supervisory procedures with respect to the reporting of arbitration awards.

This action has been appealed to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C3A010045)

Complaints Filed

The following complaints were issued by NASD. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by NASD in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

Joseph Abbondante (CRD #1879052, Registered Representative, Freehold, New Jersey) and Daniel Timothy Pszanka (CRD #2499042, Registered Representative, Denver, Colorado) were named as respondents in an NASD complaint alleging that they engaged in private securities transactions without prior written notice to, or approval from, their member firm. The complaint also alleges that, in connection with customers' investments in a limited partnership, Abbondante and Pszanka, directly or indirectly, by the use of the means or instrumentalities of interstate commerce, or of the mails, or of any facility of any national securities exchange, employed artifices, devices, or schemes to defraud; made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; engaged in acts, practices, or courses of business which operated, or would operate, as a fraud or deceit; and/or effected transactions in, or induced the purchase or sale of, securities by means of manipulative, deceptive, or other fraudulent devices or contrivances. The complaint further alleges that Abbondante and Pszanka engaged in an outside business activity without providing written notice to their member firm. Furthermore, the complaint alleges that Abbondante and Pszanka created and provided investment account statements to public customers that contained purported information with respect to each customer's investment in a limited partnership including the amount and location of their principal investments,

the performance of their investments, and their returns on investments that were false, misleading, deceptive, and without a factual basis. (NASD Case #C10020090)

Vincent Roger Bickler (CRD #2042291, Registered Representative, Toms River, New Jersey) was named as a respondent in an NASD complaint alleging that he forged the names of public customers on checks totaling \$1,359 issued to the customers by Bickler's member firm, and deposited the checks into his own personal bank account without the customers' knowledge, authorization, or consent, thereby converting the funds for his own use and benefit. The complaint also alleges that Bickler failed to respond to NASD requests for information and documents. (NASD Case #C10020095)

William Pang Chien (CRD #2251029, Registered Principal, Plantation, Florida) was named as a respondent in an NASD complaint alleging that he caused \$350,500.87 to be wire transferred from the accounts of public customers at his member firm to various bank accounts, including accounts under his control, without authorization from the customers, thereby converting the funds. The complaint also alleges that Chien caused \$209,900 to be wire transferred from accounts of public customers at his member firm to various bank accounts, including accounts under his control, without authorization from the customers, and ultimately returned the funds to the customers, thereby misusing customer funds. In addition, the complaint alleges that Chien failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C07020077)

Laura Leigh Cockrell (CRD #2738492, Registered Representative, Spring Hill, Tennessee) was named as a respondent in an NASD complaint alleging that she generated checks totaling \$77,100 drawn on her member firm's postage account, public customer accounts, and a firm employee account without their knowledge or consent. The complaint alleges that Cockrell made the checks payable to "W. Cockrell" or "Wesley Cockrell," signed the checks, obtained the required counter signatures, and then endorsed them "For Deposit Only" to an account under her control. The complaint also alleges that Cockrell failed to respond to NASD requests for information. (NASD Case #C05020046)

John Christian Ferraro (CRD #2756017, Registered Representative, Islip, New York) was named as a respondent in an NASD complaint alleging that he executed transactions in the account of a public customer without the customer's prior knowledge, authorization, or consent. The complaint also alleges that Ferraro exercised discretion in the accounts of public customers without obtaining their prior authorization or obtaining his member firm's prior written acceptance of the accounts as discretionary. In addition, the complaint alleges that Ferraro executed transactions in the account of a public customer without reasonable grounds for believing that the level

of activity represented by the transactions was suitable for the customer based on his financial situation, investment objectives, and needs. (NASD Case #C10020088)

Howard Scott Ismark (CRD #2928579, Registered Representative, North Miami Beach, Florida) was named as a respondent in an NASD complaint alleging that he effected, or caused to be effected, transactions in the accounts of public customers without their prior authorization. The complaint also alleges that Ismark participated in a private securities transaction without providing prior written notice to his member firm. In addition, the complaint alleges that Ismark failed to respond to NASD requests for information and documents. (NASD Case # C07020070)

Barry Alan Kaufman (CRD #2774898, Registered Representative, Boca Raton, Georgia) was named as a respondent in an NASD complaint alleging that he effected unauthorized trades in the account of a public customer. The complaint also alleges that Kaufman failed to respond to NASD requests for documents and to provide a written statement. (NASD Case #C07020078)

Richard Anthony Takacs (CRD #2479382, Registered Principal, Holbrook, New York) was named as a respondent in an NASD complaint alleging that he effected transactions in the accounts of public customers without their prior knowledge, authorization, or consent. The complaint also alleges that Takacs failed to respond truthfully and non-deceptively during an NASD on-the-record interview. In addition, the complaint alleges that Takacs prepared and mailed a letter to public customers and failed to obtain approval of the letter from a designated principal at his member firm prior to mailing the letter. (NASD Case #C10020096)

Emerson Victor Yang (CRD #2949183, Registered Representative, West New York, New Jersey) was named as a respondent in an NASD complaint alleging that he engaged in a fraudulent scheme to profit at his customer's expense by secretly placing matched buy and sell orders in the after-hours market between the customer's account at his member firm and a personal account that he maintained secretly at another broker/dealer. The complaint also alleges that Yang, by placing buy and sell orders in a customer account for his personal benefit rather than for the benefit of the customer, made improper use of customer securities and funds. The complaint further alleges that Yang failed to notify his member firm of his outside brokerage account, and failed to notify the broker/dealer holding the account that he was associated with another member firm. In addition, the complaint alleges that Yang failed to respond to NASD requests for information and to appear for testimony. (NASD Case #CMS020159)

Firms Expelled for Failing to Pay Fines and/or Costs in Accordance with NASD Rule 8320

Cybervest Securities, Inc.
Brooklyn, New York
(October 9, 2002)

William & Co. Capital Markets
New York, New York
(October 9, 2002)

Firms Suspended for Failure to Supply Financial Information

The following firms were suspended from membership in NASD for failure to comply with formal written requests to submit financial information to NASD. The action was based on the provisions of NASD Rule 8210 and Article VII, Section 2 of the NASD By-Laws. The date the suspension commenced is listed after the entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

International Securities Corporation
New York, New York
(October 8, 2002 - October 11, 2002)

Kersey, Scillia, Forster and Brooks, Inc.
Ft. Lauderdale, Florida
(October 8, 2002)

Platinum Investment Corporation
Rochester, New York
(October 7, 2002)

Webel-Roth Securities, Inc.
Boca Raton, Florida
(October 14, 2002)

Suspension Lifted

NASD has lifted the suspension from membership on the date shown for the following firm because it has complied with formal written requests to submit financial information.

Electronic Specialist, LLC
New York, New York
(September 17, 2002)

Firm Suspended Pursuant to NASD Rule Series 9510 for Failure to Comply With an Arbitration Award, a Settlement Agreement, or Arbitration Fees

The date the registration was suspended is included after the entry. Since the firm has complied, the listing also includes the date the suspension was lifted.

Beckwith & Co., Incorporated
Bonita Springs, Florida
(October 3, 2002 – October 11, 2002)

Individuals Barred Pursuant to NASD Rule 9544 for Failure to Provide Information Requested Under NASD Rule 8210.

(The date the bar became effective is listed after the entry.)

Albers, Joseph R.
Gig Harbor, Washington
(September 30, 2002)

Anonuevo, Noel Mendoza
Hercules, California
(September 30, 2002)

Fishbein, Michael B.
Bronx, New York
(September 23, 2002)

Hsu, John S.
Alhambra, California
(September 12, 2002)

Paulsen, Curtis C.
Ballwin, Missouri
(September 23, 2002)

Sweidan, Kamil H.
Naples, Florida
(September 30, 2002)

Weinstock, Jason H.
Van Nuys, California
(September 12, 2002)

Individuals Suspended Pursuant to NASD Rule 9541(b) for Failure to Provide Information Requested Under NASD Rule 8210.

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Coleman, Joseph C.
Coraopolis, Pennsylvania
(October 4, 2002)

Fried, Lanny T.
New York, New York
(September 17, 2002)

Gates, Frank Jay
Roseville, California
(September 20, 2002)

George, Audrey Sue
Littleton, Colorado
(September 17, 2002)

Ko, Benny
Walnut, California
(September 12, 2002)

Koupas, Harry
Dallas, Texas
(October 4, 2002)

Lisnoff, Jr., Robert W.
Medford, New York
(September 30, 2002)

O'Connor, Theresa A.
San Francisco, California
(September 20, 2002)

Rojas, Ramiro
Elk Grove, California
(September 18, 2002 – September 19, 2002)

Toyin-Oke, Tajudeen T.
Randallstown, Maryland
(October 4, 2002)

Individuals Suspended Pursuant to NASD Rule Series 9510 for Failure to Comply With an Arbitration Award or a Settlement Agreement

The date the registration was suspended is included after the entry. If the individual has complied, the listing also includes the date the suspension was lifted.

Betta, Jr., William
Boca Raton, Florida
(September 10, 2002)

Brown, James R.
Medford, New York
(September 30, 2002)

St. John, Kert L.
San Diego, California
(October 3, 2002)

Individuals Revoked for Failing to Pay Fines and/or Costs in Accordance with NASD Rule 8320

Angrisani, Edward D.

Skillman, New Jersey
(October 9, 2002)

Chien, William P.

Plantation, Florida
(October 9, 2002)

Goritz, George M.

New York, New York
(October 9, 2002)

Hanson, Luther A.

Charlestown, West Virginia
(October 9, 2002)

Nguyen, Hao

Houston, Texas
(October 9, 2002)

Palermo, John M.

Holbrook, New York
(October 9, 2002)

Perles, Howard R.

Staten Island, New York
(October 9, 2002)

NASD Charges New York Broker Todd M. Eberhard with Numerous Sales and Reporting Violations

NASD charged Todd M. Eberhard, the majority owner of Park South Securities, LLC, with multiple violations of securities laws and NASD rules. The charges include securities fraud, issuing false account statements, settling customer complaints at three firms where he previously worked without the prior approval of the firms, and numerous Central Registration Depository (CRD) reporting violations.

The complaint alleges that during the last several years, Eberhard committed securities fraud in connection with scores of mutual fund transactions. Among other abuses, Eberhard engaged in a pattern of short-term trading of mutual funds and purchasing large volumes of class B mutual fund shares. NASD's review of the accounts revealed patterns of improper short-term trading of mutual funds in order to maximize commissions.

Through large purchases of class B shares, Eberhard kept his customers from taking advantage of the lower sales charges available through different classes of funds. In one customer's account, a mutual fund position was held for just 10 days. In another customer's accounts, despite a \$250,000 purchase limit on class B shares imposed by the mutual fund distributor, Eberhard effected total purchases of more than \$700,000 of class B shares of the fund.

Many customers eventually complained to Eberhard about the activity in their accounts. Eberhard agreed to settle many of these complaints; however, in 14 instances he did so improperly, without the prior knowledge and consent of his employer brokerage firms. The settlements were often large, with Eberhard agreeing to pay some customers hundreds of thousands of dollars, and in one case, \$2 million.

In at least one instance, Eberhard issued statements that included false valuations intended to induce the customer to keep his accounts with Eberhard.

In many instances, Eberhard failed to report the customer complaints and settlements to NASD on his Form U-4, thus failing to update the CRD system. In some cases, even when Eberhard filed amendments to his Form U-4, he misrepresented the underlying facts of the customer's complaint and settlement.

Eberhard also entered into a number of written settlement agreements with customers that included improper confidentiality clauses. These provisions effectively prohibited the customers from disclosing the facts of their complaints and the settlement terms to NASD.

Under NASD rules, an individual named in a complaint can file a response and request a hearing before an NASD disciplinary panel. Possible sanctions include a fine, censure, suspension, or bar from the securities industry, in addition to the request made by NASD in the complaint that the respondent give up any ill-gotten gains and pay restitution.

NASD Settles Charges Against Swift Trade Securities for Deceptive Trading and Non-Bona Fide "Wash" Transactions in QQQ

NASD reached a settlement with Swift Trade Securities USA, Inc. and its President, Peter Beck, for engaging in a deceptive trading scheme involving fictitious "wash" transactions in the NASDAQ-100 Index Tracking Stock (QQQ) in an effort to obtain market data revenue generated from such transactions.

Swift USA and Beck were censured and fined, jointly, \$75,000 and were required to give up \$26,000, the profits from the fictitious wash sales. NASD suspended Beck for 30 business days in all capacities, and censured and fined Joseph Ianni, Vice President of Compliance and Swift USA, jointly, \$25,000 for inadequate supervision.

From April 2002 through May 2002, Swift USA, an NASD-registered brokerage firm based in Toronto, Canada, operated a computer software program that simultaneously routed offsetting limit orders for QQQ to The Island ECN, Inc. The orders were solely for the account of Swift USA's only customer and Canadian-registered counterpart, Swift Trade Securities, Inc. Because Swift USA executed these orders for a single customer at the same price and quantity on both sides of the market,

there was no change in Swift Canada's ownership of QQQ shares. Fictitious and non-bona fide transactions that do not result in a change of ownership are illegal.

NASD found that Swift USA, through Beck, violated NASD rules by executing these "wash" transactions through Island to profit from the market data revenue sharing provided by Island to its subscribers, while not subjecting Swift Canada to the risk of profit or loss from the underlying trading. As a result of this trading strategy, Swift USA received approximately \$26,000 in illegal data revenue.

NASD also found that Swift USA and Joseph Ianni inadequately supervised the trading in Swift USA's proprietary account. In settling this matter, all Respondents neither admitted nor denied NASD's findings.

NASD Charges Two Minneapolis Brokers with Insider Trading; Settles with Three Others

NASD issued a complaint charging two Minneapolis, MN, brokers with insider trading. Thomas D. Krosschell and Joseph A. Geraci II have been charged with buying the common stock of Minnesota American, Inc. (OTCBB: MNAC) while in possession of inside information about a potential reverse merger between MNAC and Berthel Fisher & Co. Financial Services, Inc., an Iowa-based brokerage firm. At the time, Krosschell and Geraci were working at now defunct Maven Securities, which had been retained by MNAC as the company's investment bankers.

In a related action, NASD announced that it has settled insider trading charges with three other former employees of Maven Securities: Daniel J. Shrader, the president of the firm; Troy W. Johnson, a broker; and Michael E. Cain, a sales assistant, for purchasing MNAC stock while in possession of material inside information about the company.

In the complaint, NASD alleges that Krosschell and Shrader presented the idea of a reverse merger to MNAC and Berthel Fisher. As they were negotiating details of the potential merger, Krosschell and Shrader purchased more than 100,000 shares of MNAC stock. The complaint further alleges that they tipped approximately 20 others to purchase the stock including all of the firm's brokers. Shortly after news of the planned merger was announced, Krosschell and Shrader began to sell the stock, generating realized profits of approximately \$90,000. The proposed merger fell through, and MNAC later merged with CorVu Corporation (OTCBB: CRVU).

According to the complaint, Krosschell and Geraci violated federal securities laws and NASD rules by purchasing MNAC stock while in possession of inside information about the company's potential reverse merger with Berthel Fisher. In settling the matter, Shrader and Johnson each consented to a permanent bar from association with any NASD member, while Cain consented to a one-year suspension.

Under NASD rules, the individuals named in the complaint may file a response and request a hearing before a disciplinary panel. Possible sanctions include a fine, disgorgement, suspension or bar from NASD.

NASD Hearing Panel Bars Broker for Evading Federal Currency Reporting Requirements

An NASD Hearing Panel barred Christian W. Baker, a Livonia, MI, registered representative, from the securities industry for structuring currency transactions in an effort to evade currency-reporting requirements and failing to file required Currency Transaction Reports (CTR).

On July 10, 2001, NASD filed a complaint against Baker alleging, among other things, that she violated NASD Rules by structuring currency transactions to evade federal reporting requirements and causing an NASD member firm to fail to file a CTR.

"It is imperative in today's world that the front lines of our industry adhere to procedures that may help identify transactions that may have dubious origins," said Mary L. Schapiro, NASD President of Regulatory Policy and Oversight. "As this action illustrates, we will identify and sanction those in our industry who try to circumvent these procedures."

Financial institutions, including broker/dealers, are required to report cash transactions of more than \$10,000 to the federal government by filing a CTR. Federal law prohibits any person from structuring transactions or assisting in the structuring of transactions to evade reporting requirements. Federal law also prohibits any person from causing or attempting to cause a financial institution to fail to file CTRs.

The Hearing Panel, in its decision, found that Baker accepted \$50,000 in cash from a customer who insisted that the transaction not be reported. After learning from a bank teller that reports were not required for cashier's checks issued in amounts of less than \$3,000, Baker began to periodically exchange the customer's cash for cashier's checks in amounts of less than \$3,000. The Panel found that over a four-month period, Baker purchased 24 separate cashier's checks in amounts of less than \$3,000, eventually depositing the entire \$50,000 that was being held in her desk drawer into the customer's account.

The Hearing Panel also found that Baker did not record the receipt of the \$50,000 in cash, did not notify her employer or the U.S. Department of the Treasury that she had indeed received the cash, and failed to file the required CTR. Baker's failure to inform her employer of the transaction caused the firm, to in turn, fail to file the required CTR. The Panel also found that Baker structured the 24 purchases of cashier's checks for the express purpose of preventing her employer from complying with the reporting requirements.

The Panel noted in its decision that the currency reporting statute protects the taxing power of the U.S. Government, as well as inhibits the flow of cash to terrorist organizations. The Panel found that Baker's conduct undermined those purposes and those of the federal securities laws. In imposing the bar from associating with any NASD member, the Panel found that Baker's conduct was intentional and specifically designed to evade the reporting requirements mandated by federal law.

Salomon Smith Barney Fined \$5 Million for Issuing Misleading Research Reports on Winstar; Charges Filed Against Jack Grubman and Christine Gochuico

NASD fined Salomon Smith Barney \$5 million for issuing materially misleading research reports in 2001 on Winstar Communications, Inc. Separately, NASD announced that it filed a complaint against Jack Grubman, formerly the Managing Director of the firm's Equity Research Department, and Christine Gochuico, a Salomon Vice President and an assistant to Grubman, concerning the same conduct. Grubman and Gochuico authored the reports that were the focus of the inquiry.

The settlement between NASD and Salomon resolves a singular NASD investigation into Salomon's Winstar reports and does not address other, larger Salomon-related research analyst investigations currently underway by NASD and other regulators.

"What occurred in this case was a serious breach of trust between Salomon and its investors," said Mary L. Schapiro, NASD's President of Regulatory Policy and Oversight. "It should go without saying that reports issued for investors' use must be truthful. This case, along with others already filed and those under active investigation, make it clear that strong enforcement action will be taken against brokerage firms and their analysts who issue misleading research."

The settlement against Salomon Smith Barney is NASD's third largest in history.

Winstar was a broadband telecommunications service provider that filed for bankruptcy last year. Salomon's research reports strongly recommended Winstar as a "Buy"—Salomon's top rating—with a 12- to 18-month target price of \$50 even as the stock plummeted from approximately \$20 on January 25, 2001, to 14 cents on April 17 of that year. In the settlement today, Salomon agreed to findings that it did not have a reasonable basis for that target price.

Salomon had a significant investment banking relationship with Winstar. Beginning in February 1999 through July 2001, Salomon helped Winstar raise more than \$5.6 billion, receiving fees of approximately \$24 million for those services. Even as Winstar's prospects were falling and its stock price collapsing, Salomon worked with Winstar to address its funding needs, a relationship that continued even after the company filed for bankruptcy.

Grubman and his assistant worked closely with Winstar's management. They consulted Winstar's management prior to issuing research reports and financial models that purportedly reflected their independent judgment and analysis. For example, they sent Winstar officials the financial model they had created to analyze Winstar, and that yielded the target price, for approval before making it publicly available.

NASD found that Salomon's reports failed adequately to disclose the risks of investing in Winstar, including important risks relating to funding and bankruptcy. The reports contained repeated strong praise for Winstar, while belittling other analysts who were critical of the company. Some of the rebuttals were false and misleading.

The complaint against Grubman and Gochuico charges that e-mails and other internal Salomon documents demonstrate that, while they were publicly recommending Winstar to investors, they expressed contrary views in private. In various private communications, both Grubman and Gochuico highlighted risks of investing in Winstar and expressed doubts about Winstar's ability to obtain funds. Those risks and doubts were never disclosed to the investing public.

Some of the private communications included:

- ♦ Salomon's target price of "\$50 per share is shall we say—extremely aggressive";
- ♦ An unwillingness to change the firm's target price because of "optics"; and
- ♦ Privately telling others to sell at prices far below the \$50 target price.

During this same period, Winstar, which traded on NASDAQ, had suffered significant losses, needed large amounts of capital to operate, and was heavily dependent on external sources for financing. In 2000, it had a net loss of almost \$900 million. In April 2001, it filed for reorganization under Chapter 11 of the U.S. Bankruptcy Code.

Grubman and Gochuico initiated research coverage of Winstar with a Buy rating in January 1998. At that time, Winstar's market capitalization was almost \$1 billion. They maintained a target price of \$50 per share from October 2000, when Winstar's market capitalization was approximately \$2.8 billion, until April 2001. By April 18, Winstar's market capitalization had fallen by more than 99 percent to approximately \$13 million. Grubman acknowledged in an internal e-mail in May 2001, "If anything the record shows we support our banking clients too well and too long."

In settling this matter, Salomon neither admitted nor denied NASD's findings.